

NO. 44

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 14, 2020

THURSDAY, MAY 14, 2020

Thursday, May 14, 2020
(Statewide Session)

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the ACTING PRESIDENT, Senator MASSEY. **(This is a Statewide Session day established under the provisions of Senate Rule 1B. Members not having scheduled committee or subcommittee meetings may be in their home districts without effect on their session attendance record.)**

ADDENDUM TO THE JOURNAL

The following remarks by Senator RANKIN were ordered printed in the Journal of April 8, 2020:

Remarks by Senator RANKIN

I do not stand here to delay, belabor, shield for, protect or do anything for anybody -- Santee Cooper or anyone else, except to stand here and tell you how I think you are being asked to join in a party that was hatched without leadership's involvement. And this party -- the invitation list kind of changed. You all were not invited to this party. You didn't hear anything about what's going to go on at the party when we last gathered here, and we huddled with Senator LEATHERMAN in the corner and right up here. The party is not the same today as when we were told we have to do this because trouble with a capitol 'T' is coming.

And so, trouble is here folks but what happened between then and now? We didn't do this, and we're going to talk about these private messages, these private conversations. We didn't do this. No one person in this Senate to my knowledge, based on private conversations, ever offered this language. Not one. We had a conversation last Wednesday. I got to join the party! It was a party line. I got to be invited and I was assured, and I daresay there's not anyone who now would tell me differently that you haven't already said clearly, we will live to fight another day. Who said that? Jay Lucas. We will fight another day. We recognize we don't want to be up here, we don't want to be talking about this. We want to push this off. Yes, we've invested time. Yes, we've invested \$15 million. This is not the time to do it.

I said in that conversation "Thank you" because we don't have the time. We don't need to be here talking about a subject that is a fly on the backside of a pig in scope to what we're really here for. So I take

THURSDAY, MAY 14, 2020

that conversation and I say to them, “Folks remember that if they need your help, if Santee Cooper, your state agency, like ‘em or not, if they need to take advantage of even more exigent circumstances with the downturn in this economy, please be receptive. Don’t stranglehold them. Let them do what they are charged by us to do: generate reliable, sustainable and affordable power.”

Like it or not folks, we didn’t put them in business, but our forefathers did. I made that plea. Murrell Smith said, “I want to keep reforming, I don’t want to give this up.” Again, correct me if I’m wrong -- witnesses to these conversations. I’m working on a reform package. I think we will all be able to embrace this. It may not be like I want, it may not be exactly like Senator MASSEY wants, but we will get beyond this fight and this continued tilting of the scales to punish a state agency that we put in power long ago.

We will get beyond this fight and this continued tilting of the scales to punish a state agency that we put in power long time ago to keep delivering affordable, dependable rates and power to this State. And we’ll move beyond this idea, this infatuation, this quest, this lie. Perhaps it’s a lie. Perhaps we’re stringing along the would be buyer who is flooding this State with money to get its way. I may be a beneficiary of the largess of this buyer, Next Era.

But my curiosity folks is in spite of this conversation on Wednesday. I hear not one peep from leadership telling me “Rankin, it’s a little different than what you heard. We’ve got this language. We’re going to leave it alone, that’s what we said, but we’ve got some language.” So, folks involved with this state agency are rightly concerned when they get this language. They realize that they have entered into an agreement with the co-ops all eyes wide open going into this thing knowing that in order to achieve the terms of the settlement what do they have to do? They have to do what the entire class action was about in the first place. Operate more efficiently. Save money.

They all agreed to do that. And so that’s the intent. We’re going to do better by who? The ratepayer. Better than they’ve already done. And I’m not defending the Santee Cooper that drove us into the ditch. I’m not defending Lonnie Carter. I’m not defending O.L. Thompson. I’m not defending the predecessors to this executive management team hired from Arizona that has come in and cut the budget and paid down the debt.

These aren’t people that I know so I’ve got no gain in speaking for them except to say that they’re doing the job that the predecessors didn’t. Because why? Because the board finally decided to ignore the politics

THURSDAY, MAY 14, 2020

up here, not hire their buddy, not appoint this buddy as a board member or a chairman, not let this little clique operate. As you all heard Dan Wray said five people in Santee Cooper knew what was going on. Five people! Was that their problem or is that ours? Did we equip a board to do a horrible job before?

You all remember in '05 when we changed the law because Governor Sanford and his then political appointees wanted to run up to NY -- chum up with Credit Suisse. To do what? Investigate selling Santee Cooper. What did we do? With Mr. Couick, the General Counsel to the then Judiciary Committee Chairman, what did we do? With his leadership, and I'm not maligning him; we wrote a Bill that said what the best business practice business judgement of a fiduciary duty-bound board member should be. What did we do?

That was 2005. Let's go forward. They ran the train in the ditch. And why did they do that? Perhaps because they didn't do their due diligence. They didn't ask hard questions and perhaps despite of this letter saying I gave you notice. Perhaps all at the table then weren't as concerned about the direction we were going in. Perhaps because all at the table joined in us doing this nuclear deal. And we did. Everyone at the table then unanimously, save one in this Body right now who voted against the Base Reload Review Act, that being Senator CAMPSSEN. Every one of us, with the encouragement of who? All customer classes, co-ops included, joined in. We flew to Washington. I had never flown in the State plane before. Duke Scott, all of us on that PURC Committee fly to Washington to hear what? This is in our best interest. We are going nuclear. We're all in this together.

So, fast forward again. Senator FANNING that lead balloon crashed like a thud. And you in your county are left with the vestiges of failed decisions that we want to wrap around a board, that we want to stick our hands out and act as if we had no idea that they were doing it. We want now no part of the responsibility of that failed decision. But folks it was our decision!

So, fast forward again. All this litigation, all these hearings, all this good effort on our part to drill down to why, what, when, how, to get to the root of the failure -- Act 95. We have got a work in progress. Some argue that its over, either now with the Finance Committee rejection of all three of the tasks it was asked to decide: reform, sell or management. Either it's over now or not. House likewise argues over there. You hear their testimony at their hearings. It's over. And so today you hear that it's over if you don't do something right now because they're going to run off into the rogue board behavior and run this thing even further in

THURSDAY, MAY 14, 2020

the ditch by entering into long-term contracts. Oh my gosh, heaven forbid.

So, my question is, in these private meetings, these conversations starting Monday and Tuesday and today folks, who are we fighting here for? What is the rub that has changed this party from the last time we were here? And unfortunately for some, perhaps all of you right now listening to me -- we should have given that Bill third reading and been done with it because the House wanted language in there then that Senator LEATHERMAN wanted then. We wouldn't be back here now would we? Perhaps we would for further relief that's included in the other sections of this.

But the party and the table changed. So, I'm asking somebody please tell me, is it because we are afraid that the Santee Cooper board and its chairman and its directors, who, I'm sorry, but everybody vetted in recommending to the appointment. Certain people in industry had a hand in recommending to a Governor or two. They like this person, they like that person and they recommended to the Governor to recommend to us, to PURC, to vet these people and to put them under oath to determine whether they were qualified. We are worried now that they're going to be so independent and that they're going to be so mindful and follow whatever the bright star, the pillar of flame, and do what the law charges them to do, and that being their fiduciary duty. We're afraid they're going to do something that's going to do what? Hamstring our ability to punish them more or impair their ability to do what, save Horry County and every other direct serve county and every other co-op area in this State to save their customers' money -- short term contracts. Again, if we do this today, we will prohibit ourselves from ever reforming them. So, my question for my friend from Edgefield is, whose reform are we looking to? What is this bright star we are trying to achieve here?

No question but the Governor is doing a wonderful job. We don't have a playbook for this situation we are dealing with right now. But for sure this playbook that we're all dealing with does not include a small state agency. But the Governor has made clear -- sell it -- before we even started talking about it, before the first hearing -- Sell it. What did the Speaker of the House say in an op-ed piece? Sell it. Whose reform folks are we about that we're afraid we're going to lose today, if you don't act, we're going to lose this opportunity. Whose reform is it? Is it reform that is going to do anything to help your co-op member, that employee, in their heart of hearts they are worried about their rates going up. They're worried that they're going to have to pay more if this settlement

THURSDAY, MAY 14, 2020

is blown up. Because who ultimately pays by the shenanigans that we're about now? Anybody in a direct serve area, anybody that's a co-op member. And if I haven't heard it enough, the Policy Council's quote of \$6,200 for one group and \$4,200 for another group. Over time that is what you're going to pay.

Folks, if you don't settle Cook that's exactly what's at risk. And you don't settle Cook by adopting a CR with language that has nothing to do with a pandemic. But it takes one more shot at a rogue board to do what -- either to string somebody along, string us along, keep us in the game. Keep Next Era at the table maybe. They might get a little bite of this apple yet. Maybe another buyer is out there. Or, let's get a new director. Let's get a new CEO. This guy has done such a good job; let's sack him. I don't know what altar we are worshiping at except the foolish and folly.

I will suggest to you this point made offline a moment ago. Well, two in fact. This idea of conversations with three people. And not directed at me perhaps but by association that I said, we said, no to limiting, Senator from Aiken, your exchange saying no for a one year or no to taking sale out? I don't remember that. And I'm thick, slow, a C-student at my best, that might have been broached by Senator MASSEY. I've not heard that. Now, there was a conference call last night at 6:30 or 7:00 and I couldn't participate. It might have been broached then. But the point perhaps made by inference that we, those who were defending, or as one of my friends in the House called me, the apologist for Santee Cooper, that we rejected that out of hand. Folks, if that's an offer made last night or this morning, why didn't they even talk about that last Wednesday on the phone call with me? Why weren't we totally in the loop as to what the reindeer games were? Why didn't we get, "hey, let's work this out, hey, here's some language, let's work this out." You didn't get this CR until when, folks? Two days ago, Monday I think, or I didn't get it until then.

Now, in this call last Wednesday -- I also want to make another point. What is really important in here and you read the preamble and you look at the language, and Senator ALEXANDER did a great job explaining the contents of this. One of the key things we are talking about here, and Senator HUTTO asked about it, is elections. We have got a primary and we have got a general election. Now we as a State have thus far said we don't need to move the dates. But Senator CAMPSSEN in his efforts in this regard introduced S. 867, a Bill that flowed through here like milk and honey. We sent it to the House. It sits right now in their Judiciary Committee. What would this Bill do? It allows the early counting of

THURSDAY, MAY 14, 2020

absentee ballots -- not to tally the votes, but on a Saturday or Friday before the election, it would allow election commissions to count these ballots, opening only the first envelope and not the second. To get a jump on what we anticipate and what Senator CAMPSSEN feared would be a flood of absentee ballots. We passed it -- boom. It is out of here, it's in the House Committee.

So, in our conversation last Wednesday, and correct me if I'm wrong, but I broached the subject to the House. There's a Bill in your Committee. There is great concern by Marci Andino that we are going to be in a large crunch with the elections. So, in that conversation I broached the subject. We need to get that out as there is some concern that those absentee ballots are going to be large in number and with the perhaps even more limited possibly limited number of staff, volunteers and poll workers. I think this is important. I think we need to do this. Again, I had a conversation with Senator CAMPSSEN right before that phone call to make sure I got the details right. What's the response to that? We can't pull that out of committee. We've got problems over there -- one House member -- we can't poll it out because we can't have unanimous consent. Representative Jonathon Hill will hold this up. So, what is this Continuing Resolution really about? If its not about elections, they tell me last Wednesday, why are we even including that language, why do we have a section dedicated there, because maybe elections are important, or they aren't important? I don't know, but we can't do the herculean task to pull something out and give it second and third reading and pass it to allow our election commissions more accommodation in light of where we are right now. Can't do it.

Now folks, again, if this is not of our hand, if this is not our language except for the explanation that if we don't do something they are going to run amuck even further; if it's not of our hands, why am I even up here talking? Why are we having a cram down from the House, who doesn't have the courtesy to tell me on the phone last Wednesday, until a call yesterday from my good friend, co-chairman of JMSC, whatever they were intending to do here. Why didn't they tell us that? I'm glad we didn't appeal the Rule of the Chair. While I don't agree with it, it's the Rule of the Chair and we don't need to waste time on an appeal.

What we have before us is something that spoke to what the House spoke to me about. That is the key ingredients of what we have to do. "Get out of here! Shut up, Luke. Do the important work and get out of here." And what I see is an overreach perhaps by somebody. And again, who it is I don't know. But if it is not one of us in this Body, then why are we going to reward the House for playing footsie with somebody

THURSDAY, MAY 14, 2020

that's not even in this room? Why are we going to reward and take a cram down last minute or in the stealth of the night deal to run in and grab while you can? I cannot help but invoke what I've just recently heard and I'm sure I will misstate it. Rham Emmanuel is quoted as saying, "Never miss a good crisis." When do we hear that? No offense, but everybody perhaps takes their turn at it. That's what the Republicans said of Speaker Pelosi and Chuck Schumer, that they invoke these words in their attempt to throw stuff in that perhaps none of us would think would be pandemic, lifeblood of an economy, the lifeblood of health care, the lifeblood of first responders for all these things that Senator ALEXANDER's explanation touches on. Why would we not think any differently than that grab that comes to do what?

So, I'm up here to tell you this is about as odd and offensive a move, but it's politics, and so I lose. Its politics. It is an affront to this Senate I would suggest to you, but let me tack a little nicer before I sit down, before I get hammered by the mallet that is soon going to be thrust my way.

I made this point earlier, and my apologies for whoever heard the exchange over here. My language was fine, but my energy level is high because I think it is a misrepresentation to this Body to suggest that if I give it my best effort, I am going to be thwarted from real reform and that I'm not going to be able to do what we have been tasked to do and are doing right now. We have hired an expert, a Boston University Professor named Mark Williams. He is an S&P special advisor, credentialed to tell us what's going to happen when we alter these rates, what going to happen in the rate-making context. We're talking about losing the independence of this group. Board governance is what we are about.

So to suggest, Senator MALLOY, that we are not going to be able to do what we are charged to do, what your committee, the Judiciary Committee, is challenged and charged to do. Is it a sale now or not? We are going to do what we are charged to do. Senator MASSEY, you are on that committee as well. If it's not a sale, we're going to do what we're supposed to do. Just as the Finance Committee has voted, you on the Judiciary Committee are going to get to vote too, and you're going to have the chance to reform it. Not the way Next Era wants perhaps, not the way Central wants it, perhaps not the way Governor McMaster wants it, but the way you decide.

That's what my energy has been expended on. So, I want to call a slight time out to the pandemic-fueled push to do something that does nothing but punishes a quasi-state agency. No state dollars are going

THURSDAY, MAY 14, 2020

into it yet, the State is benefitting from it. I'm paying into the State every time I pay my monthly bill. But a quasi-agency that is being singled out to punish. I urge you to look at the real story here, look at the real story here, look at the real picture, and to call "bull" to the efforts to cram down your throats something that this board has entered into an agreement to do in its settlement, approved by the assigned retired Supreme Court Justice. Subject to contingencies, clearly. But I know the agreement. I know the agreement. So, when the folks from Santee Cooper tell us "this prevents us from carrying out our duties to pay, to cap rates, to freeze rates," maybe I'm dumb to believe them. But this board has a fiduciary duty not to you, not to the Governor, and maybe we change that to make it clear that it is to the State. But who are they acting now in the best interest of? The rate payer.

So, I stand up here for my direct serve customers. I stand up here for my co-ops. I had a call and a text from the head of my local co-op. I didn't get to talk to him. But folks, we need to move beyond this. We as a State don't need to be captured any longer by the fighting of two groups. We need to move beyond this and we've got to work, if we're not going to sell it, to get over the fact that we're not going to sell it, and to let them do what they need to do, and that is to enter into whatever contracts. Senator MASSEY, I am not an expert. I don't know what the length of terms should be, but when you're effectively saying, as I understand it, a call was made to the leadership down there saying you've got to fire the new CEO, you've got to fire those two guys from Arizona because are they doing too good of a job.

My pledge to you is that I will get out of our committee, not mine but our, a body of work that you all will have your ability to define a length of contract, the ability to define solar, the ability to enter into an RTO. You all are going to define the governance and the operation that is in the best interests of who? The State, and I would say to you that is the same with the customer.

ADDENDUM TO THE JOURNAL

The following remarks by Senator MARTIN were ordered printed in the Journal of May 12, 2020:

Remarks by Senator MARTIN

You and I frequently hear the term "fake news", and I understand that everyone agrees with that phrase to varying degrees -- and some not at

THURSDAY, MAY 14, 2020

all. But I am going to tell you a story about verified and unquestionable FAKE NEWS!

I saw a story, in the news section and not the opinion section, of the Charleston Post and Courier dated April 19, 2020, and headlined "SC health department warned lawmakers for years: Budget cuts 'jeopardized' its pandemic plan"!

I read on, because I couldn't believe that after 10 years of record economic growth, this General Assembly, and especially this Senate, actually ignored warnings from DHEC that they lacked adequate funding for a response to a pandemic. I did not think that Senator ALEXANDER, who chairs that subcommittee, would allow it.

The third paragraph says, "over and over, they saw their budgets cut and ranks thinned, even as they warned that shortfalls jeopardized the State's preparedness and severely limited its ability to contain an outbreak"

The fifth paragraph says, "The State Department of Health and Environmental Control has lost 20 percent of its infectious disease staff since the Great Recession."

I read the rest of the article, some of which I'll touch on in a minute, but when I finished, I asked the able bodied staff of Senator ALEXANDER's subcommittee to please find out if this was true. They asked DHEC, and here is what DHEC said:

"The Post and Courier article had two errors: first, that we had lost funding and staff for our infectious disease program. This is not accurate; our funding and staff have grown. Second, that we had stopped contact tracing early on in our response. This also is not true; we have surged up from 20 tracers to 200 to meet all contact investigation needs." Remember, this is what DHEC said!

DHEC sent along a chart of their funding, which I am sure staff will share with you upon request, illustrating that expenditures in their program area labeled "Infectious Diseases", their state funding grew by a double-digit percentage in five of the last six years -- and that does not include the forty-five million they received from us a few weeks ago.

The same chart reveals that DHEC's "Public Health Preparedness" expenditures grew by 23% in FY 19 and 58% in FY 20. Again, in DHEC's words, "The Post and Courier article had two errors: first, that we'd lost funding and staff for our infectious disease program. This is not accurate; our funding and staff have grown."

DHEC also provided a chart showing that their infectious disease staffing rate has risen from 396 in FY 2011 to 444 in FY 2019, and that

THURSDAY, MAY 14, 2020

a couple of interim dips in that number resulted from internal reorganizations and the removal of historically vacant FTE positions. DHEC also noted that in the current emergency, "Through a combination of rapid hires and remobilizing existing staff, we have been able to quickly ramp up our disease contact investigation team from twenty staff on an average day to two hundred staff to meet the demands for contact tracing during our COVID-19 response."

I am glad to be able to set this record straight not so much to highlight errors in the media, although that is a little gravy on top, but to let our taxpayers know that the General Assembly, and specifically this Senate and the subcommittee responsible for DHEC's budget, would not and did not leave the public in any danger.

THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.

**READ THE THIRD TIME
SENT TO THE HOUSE**

The following Resolution was read the third time and ordered sent to the House of Representatives:

S. 1212 -- Senators Cromer, Sabb, Davis and Kimpson: A JOINT RESOLUTION TO SUSPEND ANY REQUIREMENT THAT A SCHOOL BOARD CANDIDATE MUST COLLECT PETITION SIGNATURES TO RUN FOR A SCHOOL BOARD SEAT UNTIL DECEMBER 31, 2020.

ADJOURNMENT

At 11:05 A.M., on motion of Senator SCOTT, the Senate adjourned, under the provisions of S. 1194, the *Sine Die* Resolution.

* * *

THURSDAY, MAY 14, 2020
SENATE JOURNAL INDEX

S. 1212.....	10
--------------	-----------